

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5328 of 1999

to

FIRST APPEALNo 5336 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

-
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

 2. To be referred to the Reporter or not? : NO

 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

 5. Whether it is to be circulated to the Civil Judge? : NO
-

OIL AND NATURAL GAS CORPORATION LIMITED

Versus

IBRAHIM ADAM ISAP SALOT

Appearance:

M/S TRIVEDI & GUPTA for Petitioner
MR AJ PATEL for respondent no.1
MR AD OZA with MS DS PANDIT, AGP for respondent no.2

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 21/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals under section 54 of the Land Acquisition Act read with section 96, CPC, at the instance of the Oil and Natural Gas Corporation Ltd viz. the acquiring body, challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

2. The lands in question were acquired for the benefit of the acquiring body for Central Processing Facility at Gandhar, District Bharuch. The relevant notification for the acquisition of the lands in question under section 4 of the Act was published in the gazette on 15th November 1990, but the same was affixed on the site on 27th March 1991. Thus, for the purpose of determination of market value of the lands in question, the relevant date would be the latter date. The lands are situated in the village Chanchvel, Taluka Vagra, District Bharuch.

3. The claimants had claimed that the lands under acquisition should be valued at Rs.50/- per square meter against which the Land Acquisition Officer in his award under section 11 of the said Act awarded only Rs.3 per square meter.

4. The land holders, therefore, preferred Reference Applications under section 18 of the said Act which came to be decided on merits by the common judgement and awards challenged in the present appeals. The Reference Court, after total appreciation of the evidence on record, determined the market value of the lands at Rs.25/- per square meter and also awarded other statutory allowances permissible under the said Act.

5. The Reference Court has taken note of the fact that the opponents in the reference cases i.e. the State as also the acquiring body have not led any evidence whatsoever. The Reference Court, therefore, discussed in considerable detail the totality of the evidence led by the claimants-land holders. This evidence consisted of oral evidence led by more than one claimant in the separate land reference cases, and also the documentary evidence on record.

6. So far as the oral evidence on record is

concerned, and particularly the evidence of the claimants, the same is not really material for the determination of the market value of the lands in question, and is only of general relevance with a view to establish the site of the acquired lands, the location, its fertility in relation to the adjoining villages, etc. and for the purpose of proving other documentary evidence on record, except on the aspect of agricultural yield of the lands.

7. This takes us to the consideration of the documents on record and in particular sale instances produced and proved on record by the claimants. This consists of Exhs.27 and 28 as one instance and Exhs.69 and 70 as another instance.

7.1 Exh. 27 is a sale deed of Block No.1300 which land is situated in the very same village and was sold by the said sale deed on 21st June 1989. Exh.28 is a supplementary sale deed in respect of Exh.27. The Reference Court has relied upon the same, inasmuch as the sale deed reflects the sale price at Rs.21.41ps per square meter. Since the sale deed is dated 21st June 1989, and the relevant date of section 4 notification is 27th March 1991, the trial court thought it fit to grant an increment of 15% on account of this lapse of one and half years, on the generally accepted principle that an increment of 10% per year as rise in the market value of the lands is just and reasonable. On this basis the market value reflected in the sale deed would translate to Rs.24.61 in relation to the date of notification viz. 27th March 1991.

7.2 Similarly Exh.69 is the oral deposition of the son of the vendor of land at Block No.165, which sale deed is proved by his deposition. This sale deed is at Exh.90. It pertains to sale of block No.165 of the very same village Chanchvel and is dated 24th January 1989. This reflects a sale price of Rs.15/- per square meter. In the context of these two sale deeds, learned counsel for the appellant Corporation vehemently submitted that the same pertain to small areas of land which are not comparable with large areas of agricultural land which are the subject matter of acquisition, and that therefore Exh.28 and Exh.70 should not be relied upon as comparable or as pieces of evidence for the purpose of determination of the market value. We have no difficulty in accepting this submission also for the reason that the Reference Court has not substantially relied upon these two documents. These are, therefore, excluded from consideration.

8. The claimants led expert evidence of one government approved Valuer viz. Omprakashbhai Dahyabhai Pandya who deposed at Exh.66, gave his provisional valuation report at Exh.67 and final valuation report at Exh.68. The Reference Court did not attach much importance to this piece of evidence on the basis that the said witness was commissioned by the claimants-land holders to render his opinion as to the market value of the lands in question, and that therefore both the deposition of this witness as also the valuation report prepared by him are bound to be biased in favour of the land holders. We have no difficulty in accepting these observations in principle. Such valuation reports prepared by experts at the instance of land holders are generally found to be exaggerated. Moreover, on the facts of the case we find that this valuation report is so extravagantly exaggerated that the same requires to be ignored, particularly when the valuation set out by the report at Rs.68.63ps is compared with other evidence on record. Learned counsel for the respondents-land holders also did not make any serious effort to support this valuation report.

9. This takes us to the relevant and material evidence on record whereby the land holders have led detailed evidence to bring the necessary relevant facts on record, so as to apply the capitalisation of agricultural yield method.

9.1 In this context the claimants-land holders have established that they were taking two crops of Tuvar (green) and one crop of dry Tuvar annually.

9.2 The claimants-land holders have led detailed evidence both oral and documentary to establish what was the yield per acre, what was their return in terms of money per acre, what was the sale price prevailing at the relevant time in respect of Tuvar, etc. Exh.30 and Exhs.32 to 41 (proved by Hanumanbhai Iswarbhai Patel - Exh.29) establish the average price of dry Tuvar, as determined by Vagra Taluka Sahakari Kharid Vechan Sangh, in respect of the years 1985 to 1988. Exhs.31 to 41 established bills of sale of dry Tuvar issued by the very same cooperative society.

9.3 Similarly the deposition of Jagadishbhai Patel at Exh.42 proves Exh.43, which is an average price statement of dry Tuvar for the period from 1984-85 to 1987-88, issued by Vilayat Group Coop. Agricultural Produce and Processing & Marketing Society Ltd.

9.4 Similarly the oral evidence of Shivlal Kalidas Patel at Exh.44 proves Exhs.45 to 50 which are certificates of bills of sale for dry Tuvar issued by Bharuch District Coop. Cotton Sale Ginning & Processing Ltd.

9.5 Similarly the deposition of Mahendrabhai Manubhai Nanavati at Exh.51 proves Exh.52 which is the average price of green vegetables for the year 1988-89 to 1997-98 issued by the Agricultural Produce Market Committee, Bharuch.

9.6 Similarly, the oral evidence of Suleman Hazi Isabhai at Exh.53 proves Exhs.56 to 65, which are bills issued by different private traders in respect of the price realised for the sale of dry Tuvar.

9.7 On a collective reading of the aforesaid evidence we find that the treatment of such evidence on the part of the Reference Court, the appreciation thereof and the findings of fact recorded on the basis of this evidence cannot in any manner be said to be faulty or unjustifiable. Even on a reappreciation of this evidence we find that the claimants-land holders have established an agricultural income of Rs.14000 to Rs.15000 per acre per year, and this would be the net income after expenses. However, the Reference Court has instead of accepting these figures, reduced it to Rs.10000 per acre per year merely on the supposition that the claimants are most likely to exaggerate the figures of their income, while ignoring the fact that the figures presented by the claimants are on the basis of uncontrovertible documentary evidence on record and are not exaggerated figures or mere claims of the claimants. However, since the Reference Court has reduced the yield to Rs.10000 per acre per year, this would not in any manner work to the prejudice of the appellant. We, therefore, accept this figure of Rs.10000 per acre per year as being the net agricultural income from the lands in question. When this figure is accepted and a multiplier of 10 years is applied, on capitalisation of the same, the market value works out to Rs.25/- per square meter. We find that there is no error in this calculation inasmuch as one acre is equal to 4000 sq. mtrs. We, therefore, find that the market value determined by the Reference Court on the basis of uncontrovertible evidence on record is both just and reasonable, and completely supported by ample documentary evidence on record.

10. We, therefore find that there is no reason to

interfere with the determination of the market value as found by the Reference Court.

11. No other contention on facts or principle is urged.

12. We, therefore, do not see any substance in the present appeals and the same are accordingly dismissed with no order as to costs.

ar